

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No.: 13-CR-20487

Honorable Gershwin A. Drain

THOMAS RODELL-HAROLD MILLS,

Defendant.

**ORDER GRANTING IN PART AND DENYING WITHOUT PREJUDICE
IN PART DEFENDANT’S REQUEST THAT THE CLERK FORWARD
DOCKET SHEET, SENTENCING TRANSCRIPTS, PLEA AGREEMENT
AND JUDGMENT AND COMMITMENT ORDER [#40]**

On August 15, 2013, Defendant plead guilty to being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g). On December 13, 2013, this Court sentenced Defendant to a term of 42 months imprisonment and 3 years of supervised release. Thereafter, this Court found that Defendant violated the terms of his supervised release and sentenced him to a term of twelve months imprisonment to run consecutive to Judge Victoria Roberts’s case number 17-CR-20698.

Presently before the Court is the Defendant’s Request that the Clerk Forward the Docket Sheet, Sentencing Transcripts, Plea Agreement and Judgment and Commitment Order to him at his current place of incarceration, filed on July 18,

2018. Upon review of Defendant's present request, the Court will grant his request in part and deny it in part. Specifically, his request for the docket sheet, plea agreement and judgment and commitment order will be granted. However, his request for his sentencing transcripts will be denied without prejudice.

In his request, Defendant maintains that he requires his sentencing transcripts for his "own personal needs in developing [his] files and other personal records." *See* Pg ID 129. The Court cannot discern whether Defendant intends to file a motion pursuant to 28 U.S.C. § 2255.

Title 28 U.S.C. § 753(f) governs the production of transcripts free of charge in criminal proceedings, which states in relevant part:

Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act (18 U.S.C. § 3006A), or in habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis, shall be paid by the United States out of moneys appropriated for these purposes. Fees for transcripts furnished in proceedings brought under section 2255 of this title [28 U.S.C. § 2255] to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose *if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal*. Fees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question).

28 U.S.C. § 753(f) (emphasis supplied). Therefore, the Court is required by law to make several findings prior to permitting the production of a free transcript to

Defendant. Defendant's present request precludes the Court from rendering a decision on whether Defendant is entitled to a free transcript at the expense of the United States because he does not state that he intends to file a §2255 motion or any other type of action under the Criminal Justice Act or specify the claims he intends to raise in such a filing. Therefore, the Court will deny Defendant's request for his sentencing transcripts at this time, but will permit him to re-file his request setting forth factual support consistent with the requirements of 28 U.S.C. § 753(f).

Accordingly, Defendant's Request that the Clerk Forward the Docket Sheet, Sentencing Transcripts, Plea Agreement and Judgment and Commitment Order [#40] is GRANTED IN PART and DENIED WITHOUT PREJUDICE IN PART.

SO ORDERED.

Dated: August 13, 2018

/s/Gershwin A. Drain
GERSHWIN A. DRAIN
United States District Judge

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on August 13, 2018, by electronic and/or ordinary mail and to Thomas Mills at Terre Haute, F.C.I., P.O. Box 33, Terre Haute, IN 47808

/s/ Tanya Bankston
Case Manager